

Peter P. McNamara, Esq.
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Attorneys for Defendant
Oxford Health Plans (NY), Inc.
926 Reckson Plaza
Uniondale, New York 11556-0926
(516) 357-3000

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

CARL J. MAYER,

Civ. Act. No.

Plaintiff,

NOTICE OF REMOVAL

-against-

OXFORD HEALTH PLANS,

Defendant.

-----X

The Defendant/Petitioner herein, Oxford Health Plans (NY), Inc. (incorrectly sued herein as “Oxford Health Plans” (“Oxford”)), by its attorneys, RIVKIN RADLER LLP, respectfully shows as follows:

1. On or about February 6, 2006, plaintiff Carl J. Mayer (“Plaintiff”) commenced an action against Oxford in the Small Claims Part of the Civil Court of the City of New York, County of New York, New York, alleging that he is entitled to reimbursement from Oxford for certain services and items Plaintiff allegedly received on or about January 10, 2005. A true and correct copy of Plaintiff’s Notice of Claim and Summons to Appear (hereinafter “Notice of Claim”) in that action are annexed hereto as Exhibit “A”. Upon information and belief, the dates of service are more than January 10, 2005. The Court mailed the Notice of Claim on February 10, 2006.

2. Plaintiff alleges that he is entitled to recover benefits from his health insurance plan issued by Oxford under which he was enrolled and was issued Member number 8093611*01. According to Oxford's records, Plaintiff was enrolled under an employee welfare benefit plan provided by his employer, Local 124 I U J A T Welfare Fund (the "Group").

3. This is a civil action in which the United States District Court has original jurisdiction pursuant to 28 U.S.C. § 1331, in that the validity of Plaintiff's claim for payment of health insurance benefits is dependent upon a claim of right under the laws of the United States, specifically the Employee Retirement Income Security Act of 1974, 29 U.S.C. §1001, *et seq.*, as amended ("ERISA"). Thus, all of Plaintiff's claims either "relate to" or are otherwise pre-empted by ERISA. See Metropolitan Life Insurance Co. v. Taylor, 481 U.S. 58, 61 (1987); Massachusetts Mutual Life Ins. Co. v. Russell, 473 U.S. 134, 146 (1985).

4. For the foregoing reasons, this action may be removed to this Court pursuant to 28 U.S.C. § 1441.

5. Venue is proper in the United States District Court for the Southern District of New York pursuant to 28 U.S.C. §1446(a).

6. This Notice of Removal is being filed within the time period required by law. 28 U.S.C. § 1446 (b). Written notice of removal will be given the adverse party as required by law, and a true and correct copy of this Notice of Removal will promptly be filed with the Clerk of Civil Court of the City of New York, County of New York, New York, as provided by law.

WHEREFORE, Oxford as Petitioner for removal, requests that the above-named action now pending against it in the Small Claims Part of the Civil Court of the City of New York, County of New York, be removed from the United States District Court for the Southern District of New York.

Dated: Uniondale, New York
March 13, 2006

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John T. Seybert", followed by a horizontal line.

Peter P. McNamara (PPM-2075)
John T. Seybert (JTS-5014)
RIVKIN RADLER LLP
Attorneys for Defendant/Petitioner
OXFORD HEALTH PLANS (NY), INC.
(incorrectly sued herein as Oxford Health Plans)
926 Reckson Plaza
Uniondale, New York 11556-0926
516-357-3000
RR File No.: 009456-00194

TO: Carl J. Mayer, Esq.
Mayer Law Group
One River Place, Penthouse 212
New York, New York 10036
(212) 967-9891
cyberesquire@aol.com

EXHIBIT A

CITY OF NEW YORK
SMALL CLAIMS PART
111 CENTRE STREET, RM. 322
NEW YORK, NY 10013-4389

1. Action assigned to

OXFORD HEALTH PLANS
111 AVE OF THE AMERICANS
NEW YORK CITY, NY 10036

2. Action Number

7178 8518 8010 2962 4845

NOTICE OF CLAIM

The Claimant asks Judgment in this court for
together with interest and disbursements, on the following claim:

ACTION TO RECOVER MONIES ARISING OUT OF
OF NONPAYMENT OF INSURANCE CLAIM
(DATE OF OCCURRENCE: 10.10.2005)

NOTICE TO DEFENDANT

NOTICE OF CLAIM AND SUMMONS TO APPEAR

This is the start of a lawsuit against you. It should not be ignored. Your default may have serious consequences.
YOU MUST BRING THIS NOTICE WITH YOU EACH TIME YOU APPEAR IN COURT ON THIS CASE.

SUMMONS TO APPEAR

This claim is scheduled for a Hearing to be held in the Courtroom:

111 Centre Street (Room 322)
New York, New York 10013
On Wednesday, March 16, 2006 at 6:10 PM

You, or someone authorized to represent you, must appear and present your defense at the Hearing. If you wish, you may retain the services of an attorney to represent you at your own expense. IF YOU FAIL TO APPEAR, JUDGMENT WILL BE ENTERED AGAINST YOU BY DEFAULT. EVEN THOUGH YOU MAY HAVE A VALID DEFENSE. Only the Judge presiding at the Hearing can grant an adjournment. The Clerk cannot grant any change in the scheduled date of time.

DATED: February 6, 2006

CHIEF CLERK JACK BAER

CASE TYPE: SMALL CLAIM
SMALL CLAIM

CLAIMANT

CARL J. MAYER
ONE RIVER PLACE
NEW YORK CITY, NY 10013

INDEX NUMBER

SCH 562/2006

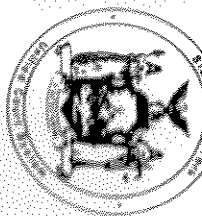
DEFENDANT

1/15

OXFORD HEALTH PLANS
111 AVE OF THE AMERICANS
NEW YORK CITY, NY 10036

A Guide to Small Claims Court is
available at the court listed above

ESTA INFORMACIÓN ESTÁ DISPONIBLE EN ESPAÑOL EN LA CORTE



U.S. NEW YORK
SMALL CLAIMS
COURT
NEW YORK, NY 10036



7178 8518 8010 2962 4845

RETURN RECEIPT REQUESTED

SONY 562/2006

3/15

OXFORD HEALTH PLANS
1425 AVENUE OF THE AMERICAS
NEW YORK CITY, NY 10036-

Handwritten:
Fund to
Penn Hwy
N-4 Hwy
7/2
10/21
7/2

FEB 10 05

